NOTES OF CASES.

JOINT TORT FEASORS—LIABILITY.—The proprietors of a saloon are held, in *Curran* v. *Olson* (Minn.), 60 L. R. A. 733, to be liable for an injury to a guest therein caused by a third person pouring over his feet, while he was asleep, alcohol procured from the bartender, and setting fire to the same.

DEEDS—CONSIDERATION—NAMING OF A CHILD.—The naming of a child for a promisor in accordance with his previous request, is held, in *Daily* v. *Minnick* (Iowa), 60 L. R. A. 840, to be a sufficient consideration for a subsequent promise to convey to the child a particular tract of land because of such act.

GUARANTY—CONSTRUCTION.—A contract of guaranty should be construed as favorably to the creditor as any other contract. *Swisher* v. *Deering* (Ill.), 68 N. E. 517. Citing *Taussig* v. *Reid*, 145 Ill. 148, 32 N. E. 918, 36 Am. St. R. 504.

In *Ayers* v. *Hite*, 97 Va. 466, however, it is held that the contract of a surety is to be closely scanned by the courts and strictly construed in his favor.

EXTRADITION—PRESENCE IN DEMANDING STATE.—A person who was not corporeally present in the demanding state at the time of the commission of a crime with which he is charged, is held, in *People ex rel. Corkran* v. *Hyatt* (N. Y.), 60 L. R. A. 774, not to be a fugitive from justice in another state within the meaning of the United States Constitution, requiring the delivery up of fugitives from justice for punishment.

CONSTITUTIONAL LAW—ACT FORBIDDING SALES OF GOODS IN BULK.—A statute forbidding the purchase of a stock of goods in bulk without ascertaining the seller's creditors and having their claims settled, is held, in *McDaniels* v. *J. J. Connelly Shoe Co.* (Wash.), 60 L. R. A. 947, not to deprive the seller of his property without due process of law, and not to be void as class legislation, or as in restraint of trade. See, *ante*, pp. 632, 682.

MARKET QUOTATIONS—PROPERTY IN.—The news of market quotations and sporting items gathered and furnished by a telegraph company to its patrons by means of tickers is held, in *National Teleg. News Co.* v. *Western U. Teleg. Co.* (C. C. App. 7th C.), 60 L. R. A. 805, to be property which will be protected by equity against appropriation by rival companies who intend to furnish it to their patrons in competition with complainants to the injury or destruction of the service.

NEGLIGENCE—EXPLOSIVES—CHILDREN OF TENDER YEARS.—The storing of dynamite in a partially buried box on a vacant lot to which children are accus-

tomed to resort to play is held, in *Nelson* v. *McLellan* (Wash.), 60 L. R. A. 795, to be negligence which will render the one guilty thereof liable for injuries to a child by the explosion of one of the sticks, which was taken from the box by children who had resorted to the lot to play, and ignited by one of them in ignorance of its explosive character.

PRINCIPAL AND AGENT—DUTY TO DISCLOSE—CONSTRUCTIVE FRAUD.—An agent who is authorized by his principal to sell or exchange the property of the latter upon specified prices and terms is held, in *Holmes* v. *Cathcart* (Minn.), 60 L. R. A. 734, to be in duty bound, upon learning that a more advantageous sale or exchange can be made, the facts concerning which are unknown to the principal, to communicate the same to him before making the sale as expressly authorized, and his failure to do so held to amount to a fraud in law.

CRIMINAL PROCEDURE—MISCONDUCT OF COUNSEL.—The conduct of the assistant prosecutor on a trial for rape, in repeatedly asking the son of the accused, on cross-examination, if he had not stated to a specified person that he suspected his father of having committed a similar offense with other girls, and that such conduct on the part of the accused caused the death of the witness's mother, and that if, at such conversation, the witness did not cry out and say: "I cannot go against my father even if he is guilty," is held in *State* v. *Irwin* (Idaho), 60 L. R. A. 716, to be ground for reversal.

CRIMINAL LAW—EVIDENCE—ADMISSIBILITY OF PRIVATE PAPERS.—On the trial of a criminal case, where private papers and property belonging to the defendant are offered in evidence against him, the court, in determining their admissibility, will not take into account the manner in which a witness obtained possession of them.

The introduction in evidence by the prosecution of private papers and property belonging to the defendant, which had been seized by officers, for the purpose of establishing his handwriting on certain policy slips and to show that he was in possession of them and the place where they were found, is not violative of the constitutional guaranty against compelling a prisoner to be a witness against himself. *People* v. *Adams* (Ct. App. N. Y.), 30 N. Y. L. J. 555. Citing *Commonwealth* v. *Tibbetts*, 157 Mass. 519; *Ruloff* v. *People*, 45 N. Y. 213; *People* v. *Van Wormer*, 175 N. Y. 188; 1 Greenleaf's Evidence, sec. 245 a. Distinguishing *Boyd* v. *U. S.*, 116 U. S. 616.

In *People* v. *O'Brien*, 68 N. E. 353, the same court construed the following section of the New York Penal Code, chapter 9, relating to gaming: "No person shall be excused from giving testimony upon any investigation and proceeding for a violation of this chapter, upon the ground that such testimony would tend to convict him of a crime; but such testimony cannot be received against him upon any criminal investigation or proceeding." It was held that under this statute a witness cannot be compelled to disclose circumstances which would